

AMENDED IN SENATE JUNE 13, 2002

AMENDED IN ASSEMBLY APRIL 25, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2729

Introduced by Assembly Member Wesson
(Principal coauthor: Senator Karnette)
(Coauthors: Assembly Members Cohn and Jackson)

February 22, 2002

An act to *add Section 1037.8 to the Evidence Code, and to amend Sections 13960, 13962, 13964, and 13965 of the Government Code*, relating to victims of crime, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2729, as amended, Wesson. Victims of crime: domestic violence counseling.

Existing

(1) *Existing* law provides for the indemnification of victims of specified types of crimes, for certain expenses for which the victim or derivative victim has not been and will not be reimbursed from any other source, *and subject to specified conditions*. The board may authorize a direct cash payment to a provider of psychological or psychiatric treatment or mental health counseling services, including peer counseling services provided by a rape crisis center, equal to the pecuniary loss attributable to medical or medical-related expenses, including counseling, directly resulting from the injury, except that payments for peer counseling services provided by a rape counseling center may not exceed \$15 for each hour of services provided. Payment

is made under these provisions from the Restitution Fund, which is continuously appropriated to the California Victim Compensation and Government Claims Board for these purposes.

This bill additionally would authorize a direct cash payment for domestic violence crisis ~~intervention~~ counseling services provided by a domestic violence ~~intervention~~ peer counselor, as defined. It would revise the limitation on payment for peer counseling services provided by a rape counseling center to an hourly rate established by the board, and would include payment for domestic violence crisis ~~intervention~~ peer counseling services provided by a domestic violence ~~intervention~~ peer counselor within the limitation. *The bill would also revise certain conditions for payment as they relate to domestic violence crimes.* By expanding the scope of services for which payment may be made from a continuously appropriated fund, this bill would make an appropriation.

(2) *Existing law generally sets forth the duties of domestic violence counselors, as defined, with respect to the disclosure of confidential communications between a victim and a domestic violence counselor.*

This bill would require a domestic violence counselor to inform a domestic violence victim of any applicable limitations on confidentiality of communications between the victim and the domestic violence counselor.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *Section 1037.8 is added to the Evidence Code,*
- 2 *to read:*
- 3 *1037.8. A domestic violence counselor shall inform a*
- 4 *domestic violence victim of any applicable limitations on*
- 5 *confidentiality of communications between the victim and the*
- 6 *domestic violence counselor. This information may be given orally.*
- 7 SEC. 2. Section 13960 of the Government Code, as amended
- 8 by Section 1 of Chapter 712 of the Statutes of 2001, is amended
- 9 to read:
- 10 13960. As used in this article:
- 11 (a) (1) “Victim” means a resident of the State of California,
- 12 a member of the military stationed in California, or a family

1 member living with a member of the military stationed in
2 California who sustains injury or death as a direct result of a crime.

3 (2) “Derivative victim” means a resident of California, or
4 resident of another state, who is one of the following:

5 (A) At the time of the crime was the parent, grandparent,
6 sibling, spouse, child, or grandchild of the victim.

7 (B) At the time of the crime was living in the household of the
8 victim.

9 (C) A person who had previously lived in the household of the
10 victim for a period of not less than two years in a relationship
11 substantially similar to a relationship listed in subparagraph (A).

12 (D) Is another family member of the victim, including the
13 victim’s fiancé or fiancée, and witnessed the crime.

14 (E) Is the primary caretaker of a minor victim, but was not the
15 primary caretaker at the time of the crime.

16 (b) (1) “Injury” includes physical or emotional injury, or
17 both. However, this article does not apply to emotional injury
18 unless that injury is incurred by a victim who also sustains physical
19 injury or threat of physical injury. For purposes of this article, a
20 victim of a crime committed in violation of Section 261, 262, 271,
21 273a, 273d, 278, 278.5, 285, 286, 288, 288a, 288.5, or 289, or
22 subdivision (b) or (c) of Section 311.4, of the Penal Code, who
23 sustains emotional injury is presumed to have sustained physical
24 injury. For purposes of this article, a victim of a crime committed
25 in violation of Section 270 of the Penal Code, as a result of conduct
26 other than a failure to pay child support, who sustains emotional
27 injury is presumed to have sustained physical injury if criminal
28 charges were filed. For purposes of this article, a victim of a crime
29 committed in violation of subdivision (d) of Section 261.5 of the
30 Penal Code, who sustains emotional injury, is presumed to have
31 sustained physical injury if felony charges were filed.

32 (2) It is the intent of the Legislature that in order for the
33 presumption set forth in paragraph (1) relating to a violation of
34 Section 278 or 278.5 of the Penal Code to apply, the deprivation
35 of custody as described in those sections shall have endured for not
36 less than 30 days. For the purposes of this paragraph, the child, and
37 not the nonoffending parent or other caretaker, shall be deemed the
38 victim.

(3) A child who has been the witness of a crime or crimes of domestic violence may be presumed by the board to have sustained physical injury.

(c) “Crime” means a crime or public offense that would constitute a misdemeanor or a felony if committed in California by a competent adult that results in injury to a resident of this state, including a crime or public offense, wherever it may take place, when the resident is temporarily absent from the state. “Crime” includes an act of terrorism, as defined in Section 2331 of Title 18 of the United States Code, committed against a resident of the state, whether or not the act occurs within the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death constitutes a crime for the purposes of this article, except that a crime shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death caused by a driver in violation of Section 20001 of the Vehicle Code.

(3) Injury or death caused by a person who is under the influence of any alcoholic beverage or drug.

(4) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(5) Injury or death caused by a person in violation of subdivision (c) of Section 192 or Section 192.5 of the Penal Code.

For the purpose of the limitations imposed by this article, a crime shall mean one act or series of related acts arising from the same course of conduct with the same perpetrator or perpetrators against a victim.

(d) “Pecuniary loss” means the following expenses for which the victim or derivative victim has not been and will not be reimbursed from any other source:

(1) The amount of medical or medical-related expenses incurred by the victim, including inpatient psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The amount of outpatient psychiatric, psychological, or other mental health counseling related expenses that became necessary as a direct result of the crime. These counseling services may only be reimbursed if provided by any of the following individuals:

(A) A person licensed as a physician who is certified in psychiatry by the American Board of Psychiatry and Neurology or who has completed a residency in psychiatry.

(B) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(C) A person licensed as a clinical social worker under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code.

(D) A person licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(E) A person registered as a psychological assistant who is under the supervision of a licensed psychologist or board certified psychiatrist as required by Section 2913 of the Business and Professions Code.

(F) A person registered with the Board of Psychology who is providing services in a nonprofit community agency pursuant to subdivision (d) of Section 2909 of the Business and Professions Code.

(G) A person registered as a marriage and family therapist intern who is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician certified in psychiatry, as specified in Section 4980.44 of the Business and Professions Code.

(H) A person registered as an associate clinical social worker, as defined in Section 4996.18 of the Business and Professions Code, who is under the supervision of a licensed clinical social worker, a licensed psychologist, or a board certified psychiatrist.

(I) A person who qualifies as a psychology intern as described in Section 2911 of the Business and Professions Code who is under the supervision of a licensed mental health professional (psychiatrist, psychologist, social worker, or marriage and family therapist) in a university hospital or university medical school

1 clinic or a person who has completed the qualifications described
2 in Section 2911 of the Business and Professions Code who is
3 pursuing postdoctoral studies and training in a university or
4 university medical school clinic under the supervision of a
5 licensed mental health professional (psychiatrist, psychologist,
6 social worker, or marriage and family therapist) for the purpose of
7 achieving higher clinical competency.

8 (J) A person licensed as a registered nurse pursuant to Chapter
9 6 (commencing with Section 2700) of Division 2 of the Business
10 and Professions Code, who possesses a master's degree in
11 psychiatric-mental health nursing and is listed as a
12 psychiatric-mental health nurse by the Board of Registered
13 Nursing, or an advanced practice registered nurse certified as a
14 clinical nurse specialist under Article 9 (commencing with Section
15 2838) of Chapter 6 of Division 2 of the Business and Professions
16 Code, who participates in expert clinical practice in the specialty
17 of psychiatric-mental health nursing.

18 (K) *A peer counselor providing domestic violence counseling,*
19 *as described in subdivision (g).*

20 (3) The loss of income that the victim or the loss of support that
21 the derivative victim has incurred or will incur as a direct result of
22 an injury or death.

23 (4) Pecuniary loss also includes nonmedical remedial care and
24 treatment rendered in accordance with a religious method of
25 healing recognized by state law.

26 (5) The amount of family psychiatric, psychological, or mental
27 health counseling expenses necessary as a direct result of the crime
28 for the successful treatment of the victim, provided to family
29 members of the victim in the presence of the victim, whether or not
30 the family member relationship existed at the time of the crime.

31 (e) "Board" means the California Victim Compensation and
32 Government Claims Board.

33 (f) "Victim centers" means those centers as specified in
34 Section 13835.2 of the Penal Code.

35 (g) "Peer counselor" means a provider of mental health
36 counseling services who has completed a specialized course in
37 rape crisis *or domestic violence* counseling skills development,
38 participates in continuing education in rape crisis *or domestic*
39 *violence* counseling skills development, and provides rape crisis

1 *or domestic violence* counseling in consultation with a mental
2 health practitioner licensed within the State of California.

3 ~~(h) “Domestic violence intervention counselor” means a~~
4 ~~provider of mental health crisis intervention and counseling~~
5 ~~services who has completed a specialized course in domestic~~
6 ~~counseling skills development pursuant to Section 13835.10 of the~~
7 ~~Penal Code, participates in continuing education in domestic~~
8 ~~violence counseling skills development, provides domestic~~
9 ~~violence crisis intervention and counseling in the context of an~~
10 ~~organization offering domestic violence crisis services authorized~~
11 ~~in Section 13835.2 of the Penal Code, and works under the~~
12 ~~supervision of a licensed mental health professional.~~

13 ~~(i) California. In the case of a domestic violence peer~~
14 ~~counselor, the peer counselor shall meet the minimum~~
15 ~~requirements for a domestic violence counselor set forth in Section~~
16 ~~1037.1 of the Evidence Code.~~

17 (h) This section shall remain in effect only until January 1,
18 2004, and as of that date is repealed, unless a later enacted statute,
19 that is enacted before January 1, 2004, deletes or extends that date.

20 ~~SEC. 2.—~~

21 SEC. 3. Section 13960 of the Government Code, as amended
22 by Section 2 of Chapter 712 of the Statutes of 2001, is amended
23 to read:

24 13960. As used in this article:

25 (a) (1) “Victim” means a resident of the State of California,
26 a member of the military stationed in California, or a family
27 member living with a member of the military stationed in
28 California who sustains injury or death as a direct result of a crime.

29 (2) “Derivative victim” means a resident of California who is
30 one of the following:

31 (A) At the time of the crime was the parent, grandparent,
32 sibling, spouse, child, or grandchild of the victim.

33 (B) At the time of the crime was living in the household of the
34 victim.

35 (C) A person who had previously lived in the household of the
36 victim for a period of not less than two years in a relationship
37 substantially similar to a relationship listed in subparagraph (A).

38 (D) Is another family member of the victim, including the
39 victim’s fiancé, and witnessed the crime.

1 (b) “Injury” includes physical or emotional injury, or both.
2 However, this article does not apply to emotional injury unless that
3 injury is incurred by a victim who also sustains physical injury or
4 threat of physical injury. For purposes of this article, a victim of
5 a crime committed in violation of Section 261, 262, 271, 273a,
6 273d, 285, 286, 288, 288a, 288.5, or 289, or subdivision (b) or (c)
7 of Section 311.4, of the Penal Code, who sustains emotional injury
8 is presumed to have sustained physical injury. For purposes of this
9 article, a victim of a crime committed in violation of Section 270
10 of the Penal Code, as a result of conduct other than a failure to pay
11 child support, who sustains emotional injury is presumed to have
12 sustained physical injury if criminal charges were filed or a
13 prosecuting attorney expresses the opinion that the child is a victim
14 of that section.

15 (c) “Crime” means a crime or public offense that would
16 constitute a misdemeanor or a felony if committed in California by
17 a competent adult that results in injury to a resident of this state,
18 including a crime or public offense, wherever it may take place,
19 when the resident is temporarily absent from the state. “Crime”
20 includes an act of terrorism, as defined in Section 2331 of Title 18
21 of the United States Code, committed against a resident of the
22 state, whether or not the act occurs within the state. No act
23 involving the operation of a motor vehicle, aircraft, or water
24 vehicle that results in injury or death constitutes a crime for the
25 purposes of this article, except that a crime shall include any of the
26 following:

27 (1) Injury or death intentionally inflicted through the use of a
28 motor vehicle, aircraft, or water vehicle.

29 (2) Injury or death caused by a driver in violation of Section
30 20001 of the Vehicle Code.

31 (3) Injury or death caused by a person who is under the
32 influence of any alcoholic beverage or drug.

33 (4) Injury or death caused by a driver of a motor vehicle in the
34 immediate act of fleeing the scene of a crime in which he or she
35 knowingly and willingly participated.

36 For the purpose of the limitations imposed by this article, a
37 crime shall mean one act or series of related acts arising from the
38 same course of conduct with the same perpetrator or perpetrators.



(d) “Pecuniary loss” means the following expenses for which the victim or derivative victim has not been and will not be reimbursed from any other source:

(1) The amount of medical or medical-related expenses incurred by the victim, including inpatient psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The amount of outpatient psychiatric, psychological, or other mental health counseling related expenses that became necessary as a direct result of the crime. These counseling services may only be reimbursed if provided by any of the following individuals:

(A) A person licensed as a physician who is certified in psychiatry by the American Board of Psychiatry and Neurology or who has completed a residency in psychiatry.

(B) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(C) A person licensed as a clinical social worker under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code.

(D) A person licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(E) A person registered as a psychological assistant who is under the supervision of a licensed psychologist or board certified psychiatrist as required by Section 2913 of the Business and Professions Code.

(F) A person registered with the Board of Psychology who is providing services in a nonprofit community agency pursuant to subdivision (d) of Section 2909 of the Business and Professions Code.

(G) A person registered as a marriage and family therapist intern who is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician certified in psychiatry, as specified in Section 4980.44 of the Business and Professions Code.

1 (H) A person registered as an associate clinical social worker,
2 as defined in Section 4996.18 of the Business and Professions
3 Code, who is under the supervision of a licensed clinical social
4 worker, a licensed psychologist, or a board certified psychiatrist.

5 (I) A person who qualifies as a psychology intern as described
6 in Section 2911 of the Business and Professions Code who is under
7 the supervision of a licensed mental health professional
8 (psychiatrist, psychologist, social worker, or marriage and family
9 therapist) in a university hospital or university medical school
10 clinic or a person who has completed the qualifications described
11 in Section 2911 of the Business and Professions Code who is
12 pursuing postdoctoral studies and training in a university or
13 university medical school clinic under the supervision of a
14 licensed mental health professional (psychiatrist, psychologist,
15 social worker, or marriage and family therapist) for the purpose of
16 achieving higher clinical competency.

17 (J) A person licensed as a registered nurse pursuant to Chapter
18 6 (commencing with Section 2700) of Division 2 of the Business
19 and Professions Code, who possesses a master's degree in
20 psychiatric-mental health nursing and is listed as a
21 psychiatric-mental health nurse by the Board of Registered
22 Nursing, or an advanced practice registered nurse certified as a
23 clinical nurse specialist under Article 9 (commencing with Section
24 2838) of Chapter 6 of Division 2 of the Business and Professions
25 Code, who participates in expert clinical practice in the specialty
26 of psychiatric-mental health nursing.

27 (K) *A peer counselor providing domestic violence counseling,*
28 *as described in subdivision (g).*

29 (3) The loss of income that the victim or the loss of support that
30 the derivative victim has incurred or will incur as a direct result of
31 an injury or death.

32 (4) Pecuniary loss also includes nonmedical remedial care and
33 treatment rendered in accordance with a religious method of
34 healing recognized by state law.

35 (5) The amount of family psychiatric, psychological, or mental
36 health counseling expenses necessary as a direct result of the crime
37 for the successful treatment of the victim, provided to family
38 members of the victim in the presence of the victim, whether or not
39 the family member relationship existed at the time of the crime.



(e) “Board” means the California Victim Compensation and Government Claims Board.

(f) “Victim centers” means those centers as specified in Section 13835.2 of the Penal Code.

(g) “Peer counselor” means a provider of mental health counseling services who has completed a specialized course in rape crisis *or domestic violence* counseling skills development, participates in continuing education in rape crisis *or domestic violence* counseling skills development, and provides rape crisis *or domestic violence* counseling in consultation with a mental health practitioner licensed within the State of California.

~~(h) “Domestic violence intervention counselor” means a provider of mental health crisis intervention and counseling services who has completed a specialized course in domestic violence counseling skills development, participates in continuing education in domestic violence counseling skills development pursuant to Section 13835.10 of the Penal Code, provides domestic violence crisis intervention and counseling in the context of an organization offering domestic violence crisis services authorized in Section 13835.2 of the Penal Code, and works under the supervision of a licensed mental health professional.~~

~~(i) California. In the case of a domestic violence peer counselor, the peer counselor shall meet the minimum requirements for a domestic violence counselor set forth in Section 1037.1 of the Evidence Code.~~

(h) This section shall become operative on January 1, 2004.

~~SEC. 3.—~~

SEC. 4. Section 13962 of the Government Code is amended to read:

13962. (a) The staff of the board shall review all applications for assistance in order to ensure that they are complete. If an application is not complete, it shall be returned to the applicant with a brief statement of the additional information required. The applicant, within 30 days of receipt thereof, may either supply the additional information or appeal the action to the board which shall review the application to determine whether or not it is complete.

(b) The board shall approve or deny applications accepted in accordance with subdivision (a) within an average of 90 calendar days. Each individual claim shall be approved or denied within 180 calendar days. These specified time periods shall operate from

1 the date the claim is accepted by the board or local contract agency,
2 to the date of approval or denial of the claim. Any verification of
3 the claim which is deemed necessary shall be performed during
4 these specified time periods. The verification process shall include
5 sending supplemental forms to all hospitals, physicians, law
6 enforcement officials, and other interested parties involved,
7 verifying the treatment of the victim or derivative victim,
8 circumstances of the crime, amounts paid or received by or for the
9 victim or derivative victim, and other pertinent information as may
10 be deemed necessary by the board. Verification forms shall be
11 provided by the board and shall be returned to the board within 10
12 business days. All of this information shall be provided at no cost
13 to the applicant, the board, or local victim centers. Verification
14 forms shall require sufficient information to clearly identify the
15 victim or derivative victim. The board shall include on the
16 verification forms a statement certifying that a signed
17 authorization by the applicant is retained in the applicant's file and
18 that this certification constitutes actual authorization for the
19 release of information, notwithstanding any other provision of
20 law. Each request from the board to a physician for a copy or
21 summary of medical records shall include a copy of the signed
22 authorization for the release of information. The board shall
23 include on the verification forms reference to this section with
24 respect to the prompt return of the verification forms. The board,
25 thereupon, shall consider the application at a hearing at a time and
26 place of its choosing.

27 (c) The victim and the applicant, if other than the victim, shall
28 cooperate with the staff of the board or the local victim center in
29 the verification of the information contained in the application.
30 Failure to cooperate shall be reported to the board, which, in its
31 discretion, may reject the application on this ground alone.

32 (d) The board may contract with local victim centers to provide
33 verification of claims processed by the centers pursuant to
34 conditions stated in subdivision (b).

35 (e) *In cases where the victim is claiming a loss as a result of a*
36 *domestic violence crime, the absence of a police report shall not*
37 *in itself be a basis for a determination that an application lacks*
38 *sufficient verification.*



1 *SEC. 5. Section 13964 of the Government Code, as amended*
2 *by Section 7 of Chapter 712 of the Statutes of 2001, is amended to*
3 *read:*

4 13964. (a) After having heard the evidence relevant to the
5 application for assistance, the board shall approve the application
6 if a preponderance of the evidence shows that as a direct result of
7 the crime the victim or derivative victim incurred an injury that
8 resulted in a pecuniary loss.

9 (b) An application for assistance may be denied, in whole or in
10 part, if the board finds that denial is appropriate because of the
11 nature of the victim's or other applicant's involvement in the
12 events leading to the crime or the involvement of the persons
13 whose injury or death give rise to the application. In the case of a
14 minor, the board shall consider the minor's age, physical
15 condition, and psychological state as well as any compelling health
16 and safety concerns in determining whether the minor's
17 application should be denied pursuant to this section.

18 (c) No victim shall be eligible for assistance under this article
19 under either of the following circumstances:

20 (1) The board finds that the victim knowingly and willingly
21 participated in the commission of the crime. This paragraph shall
22 not apply if the injury occurred as a direct result of a crime
23 committed in violation of subdivision (d) of Section 261.5 of the
24 Penal Code.

25 (2) The board finds that the victim failed to cooperate
26 reasonably with a law enforcement agency in the apprehension and
27 conviction of a criminal committing the crime. In the case of a
28 minor, the board shall consider the minor's age, physical
29 condition, and psychological state as well as any compelling health
30 and safety concerns in determining whether the minor is eligible
31 for assistance pursuant to this section.

32 (d) No derivative victim shall be eligible for assistance under
33 this article under either of the following circumstances:

34 (1) The board finds that the victim or derivative victim
35 knowingly and willingly participated in the commission of the
36 crime.

37 (2) The board finds that the victim or derivative victim failed
38 to cooperate reasonably with a law enforcement agency in the
39 apprehension and conviction of a criminal committing the crime.

1 (e) (1) Notwithstanding paragraph (2) of subdivision (c) and
2 paragraph (2) of subdivision (d), for claims based on domestic
3 violence the Board of Control shall adopt guidelines that allow the
4 board to consider and approve applications for assistance based on
5 domestic violence, taking into account the victim's age, physical
6 condition, psychological state, and any compelling health or safety
7 reasons, including, but not limited to, a reasonable fear of
8 retaliation or harm that would jeopardize the well-being of the
9 victim or the victim's family, in evaluating a victim's cooperation
10 with law enforcement, and giving due consideration to the degree
11 of cooperation of which the victim is capable in light of the
12 presence of any of these factors. ~~For~~

13 (2) *For the purposes of this section, the application of a*
14 *derivative victim of domestic violence under the age of 18 years*
15 *shall not be deemed ineligible on the basis of ineligibility of the*
16 *victim under subdivision (b).*

17 (3) *An application for a claim based on domestic violence may*
18 *not be denied solely because no police report was made by the*
19 *victim. The board shall adopt guidelines that allow the board to*
20 *consider and approve applications for assistance based on*
21 *domestic violence relying upon evidence other than a police report*
22 *to establish that a domestic violence crime has occurred. Factors*
23 *evidencing that a domestic violence crime has occurred may*
24 *include, but are not limited to, medical records documenting*
25 *injuries consistent with allegations of domestic violence, mental*
26 *health records, or the fact that the victim has obtained a temporary*
27 *or permanent restraining order, or all of these.*

28 (f) No application shall be denied solely because no criminal
29 complaint has been filed, unless the complaint has not been filed
30 for one of the reasons stated in subdivision (c) or (d). Moreover,
31 no application shall be denied because a criminal complaint is
32 filed, but later dismissed, if the dismissal is not for the reasons
33 stated in subdivision (c) or (d).

34 (g) Once an application has been accepted by the board
35 pursuant to subdivision (b) of Section 13962, as the application
36 pertains to medical or medical-related expenses, the claim shall
37 continue to be processed and either awarded or denied pursuant to
38 this article in the event of the death of the applicant.

39 (h) If a nonoffending parent in a child sexual abuse case
40 cooperates with the prosecution or Child Protective Services by

1 providing assistance to law enforcement in the disposition of the
2 case, that parent shall not be considered uncooperative within the
3 meaning of this section and shall be eligible, if otherwise qualified,
4 for restitution as a derivative victim pursuant to subparagraph (C)
5 of paragraph (1) of subdivision (a) of Section 13965.

6 (i) This section shall remain in effect only until January 1,
7 2004, and as of that date is repealed, unless a later enacted statute,
8 that is enacted before January 1, 2004, deletes or extends that date.

9 *SEC. 6. Section 13964 of the Government Code, as amended*
10 *by Section 8 of Chapter 712 of the Statutes of 2001, is amended to*
11 *read:*

12 13964. (a) After having heard the evidence relevant to the
13 application for assistance, the board shall approve the application
14 if a preponderance of the evidence shows that as a direct result of
15 the crime the victim or derivative victim incurred an injury which
16 resulted in a pecuniary loss.

17 (b) An application for assistance may be denied, in whole or in
18 part, if the board finds that denial is appropriate because of the
19 nature of the victim's or other applicant's involvement in the
20 events leading to the crime or the involvement of the persons
21 whose injury or death give rise to the application.

22 (c) No victim shall be eligible for assistance under this article
23 under any of the following circumstances:

24 (1) The board finds that the victim knowingly and willingly
25 participated in the commission of the crime.

26 (2) The board finds that the victim failed to cooperate with a
27 law enforcement agency in the apprehension and conviction of a
28 criminal committing the crime.

29 (d) No derivative victim shall be eligible for assistance under
30 this article under any of the following circumstances:

31 (1) The board finds that the victim or derivative victim
32 knowingly and willingly participated in the commission of the
33 crime.

34 (2) The board finds that the victim or derivative victim failed
35 to cooperate with a law enforcement agency in the apprehension
36 and conviction of a criminal committing the crime.

37 (e) No application shall be denied solely because no criminal
38 complaint has been filed, unless the complaint has not been filed
39 for one of the reasons stated in subdivision (c) or (d). Moreover,
40 no application shall be denied because a criminal complaint is

1 filed, but later dismissed, if the dismissal is not for the reasons
2 stated in subdivision (c) or (d).

3 (f) Once an application has been accepted by the board
4 pursuant to subdivision (b) of Section 13962, as the application
5 pertains to medical or medical-related expenses, the claim shall
6 continue to be processed and either awarded or denied pursuant to
7 this article in the event of the death of the applicant.

8 (g) If a nonoffending parent in a child sexual abuse case
9 cooperates with the prosecution or Child Protective Services by
10 providing assistance to law enforcement in the disposition of the
11 case, that parent shall not be considered uncooperative within the
12 meaning of this section and shall be eligible, if otherwise qualified,
13 for restitution as a derivative victim pursuant to subparagraph (C)
14 of paragraph (1) of subdivision (a) of Section 13965.

15 (h) *An application for a claim based on domestic violence may*
16 *not be denied solely because no police report was made by the*
17 *victim. The board shall adopt guidelines that allow the board to*
18 *consider and approve applications for assistance based on*
19 *domestic violence relying upon evidence other than a police report*
20 *to establish that a domestic violence crime has occurred. Factors*
21 *evidencing that a domestic violence crime has occurred may*
22 *include, but are not limited to, medical records documenting*
23 *injuries consistent with allegations of domestic violence, mental*
24 *health records, or the fact that the victim has obtained a temporary*
25 *or permanent restraining order, or all of these.*

26 (i) This section shall become operative on January 1, 2004.

27 SEC. 7. Section 13965 of the Government Code, as amended
28 by Section 10.5 of Chapter 712 of the Statutes of 2001, is amended
29 to read:

30 13965. (a) If the application for assistance is approved, the
31 board shall determine what type of state assistance will best aid the
32 victim or derivative victim. The board may take any or all of the
33 following actions:

34 (1) Reimburse the following persons for the expense of their
35 outpatient mental health counseling when that mental health
36 counseling is necessary as a direct result of the crime:

37 (A) A victim in an amount not to exceed ten thousand dollars
38 (\$10,000).

39 (B) A derivative victim who is the surviving parent, sibling,
40 child, spouse, or fiancé of a victim of a crime which directly

1 resulted in the death of the victim in an amount not to exceed ten
2 thousand dollars (\$10,000).

3 (C) A derivative victim, as defined in subparagraph (A), (B),
4 (C), or (D) of paragraph (2) of subdivision (a) of Section 13960,
5 who is the primary caretaker of a minor victim of sexual or
6 physical abuse whose claim is not denied or reduced pursuant to
7 subdivision (b) or (d) of Section 13964 in a total amount not to
8 exceed ten thousand dollars (\$10,000) for not more than two
9 derivative victims described in this subparagraph.

10 (D) A derivative victim not eligible for reimbursement
11 pursuant to subparagraph (B) or (C) in an amount not to exceed
12 three thousand dollars (\$3,000), provided that mental health
13 counseling of a derivative victim under subparagraph (E) of
14 paragraph (2) of subdivision (a) of Section 13960 shall be
15 reimbursed only if that counseling is necessary for the treatment
16 of the victim.

17 (E) ~~(i)~~—A victim of a crime committed in violation of
18 subdivision (d) of Section 261.5 of the Penal Code in an amount
19 not to exceed three thousand dollars (\$3,000) for mental health
20 counseling expenses only. A derivative victim of a crime
21 committed in violation of subdivision (d) of Section 261.5 of the
22 Penal Code shall not be eligible for reimbursement of mental
23 health counseling expenses.

24 The board may authorize a direct cash payment to a provider of
25 psychological or psychiatric treatment or mental health counseling
26 services, including peer counseling services provided by a rape
27 crisis center as defined by Section 13837 of the Penal Code and
28 domestic violence crisis ~~intervention~~ peer counseling services
29 provided by a domestic violence ~~intervention~~ peer counselor, or to
30 either the victim or the derivative victim, equal to the pecuniary
31 loss attributable to medical or medical-related expenses, including
32 counseling, directly resulting from the injury. Reimbursement on
33 the initial claim for any psychological, psychiatric, or mental
34 health counseling services, including peer counseling services
35 provided by a rape crisis center and domestic violence crisis
36 ~~intervention~~ peer counseling services provided by a domestic
37 violence ~~intervention~~ peer counselor, shall, if the application has
38 been approved, be paid by the board within 90 days of the date of
39 receipt of the claim for payment, with subsequent payments to be
40 made to the provider within one month of the receipt of a claim for

1 payment. However, the board may not authorize without good
2 cause a direct cash payment to a licensed health care provider, rape
3 crisis center, or organization that provides domestic violence crisis
4 counseling services over the objection of the applicant.

5 When a public agency, including a court or district attorney or
6 a police, county child protective services, or other state or local
7 governmental agency, refers a victim of crime to a private
8 nonprofit agency for treatment for that victim, the private
9 nonprofit agency shall be reimbursed for those services at the level
10 of the normal and customary fee charged by the private nonprofit
11 agency to clients with adequate means of payment for its services,
12 except that this reimbursement shall not exceed the maximum
13 reimbursement rates set by the board and may be made only to the
14 extent that the victim otherwise qualifies for services under the
15 victims of crime program and that other reimbursement or direct
16 subsidies are not available to serve the victim.

17 ~~(ii) Payments~~

18 *Payments* authorized pursuant to this paragraph for peer
19 counseling services provided by a rape crisis center or for domestic
20 violence crisis ~~intervention~~ *peer* counseling services provided by
21 an organization that provides domestic violence crisis services
22 shall be established by the board at an ~~hourly rate~~. ~~In establishing~~
23 ~~the hourly rate, the board shall consider such factors as the~~
24 ~~following:~~

25 ~~(I) Whether the counseling services were provided by a peer~~
26 ~~counselor or a domestic violence intervention counselor.~~

27 ~~(II) An analysis of the rates paid for similar or equivalent~~
28 ~~services by other state and county programs.~~

29 ~~(III) Any other factors the board deems relevant.~~

30 ~~Services reimbursed in accordance with clause (ii) shall be~~
31 ~~hourly rate. These services shall be~~ limited to individual, in-person
32 counseling on a face-to-face basis for a period not to exceed 10
33 weeks plus one series of facilitated support group counseling
34 sessions.

35 *A rape crisis peer counselor or domestic violence peer*
36 *counselor who is funded in whole by federal funds shall not be*
37 *eligible to receive reimbursement under this article.*

38 (2) Authorize a cash payment to the victim or derivative victim
39 equal to the pecuniary loss resulting from loss of wages pursuant
40 to Section 13965.1.

1 (3) Authorize a cash payment to a derivative victim for loss of
2 support pursuant to Section 13965.1.

3 (4) (A) Authorize a cash payment or reimbursement not to
4 exceed two thousand dollars (\$2,000) to a victim of sexual assault
5 or domestic violence for expenses incurred in relocating, if the
6 expenses are determined by law enforcement to be necessary for
7 the personal safety of the victim or by a mental health treatment
8 provider to be necessary for the emotional well-being of the
9 victim. These expenses may include, but need not be limited to, all
10 of the following:

11 (i) Deposits for utilities and telephone service.

12 (ii) Deposits for rental housing, not to exceed the first and last
13 month's rent and a security deposit or two thousand dollars
14 (\$2,000), whichever is less.

15 (iii) Temporary lodging and food expenses, not to exceed one
16 thousand dollars (\$1,000).

17 (iv) Clothing and other personal items, not to exceed five
18 hundred dollars (\$500).

19 (B) The board shall develop procedures to ensure that the
20 victim is using the cash payment only for the purposes of this
21 paragraph. The procedures may include, but need not be limited
22 to, requiring copies of receipts, lease agreements, or other
23 documents as requested, or developing a method for direct
24 payment to the landlord or vendor.

25 (C) When a relocation payment or reimbursement is provided
26 to a victim of sexual assault or domestic violence, the victim shall
27 agree to not inform the offender, if the identity of the offender is
28 known to the victim, of the location of the victim's new residence
29 and to not allow the offender, if the identity of the offender is
30 known to the victim, on the premises at any time, or shall agree to
31 seek a restraining order against the offender, if the identity of the
32 offender is known to the victim.

33 (D) The board may authorize a cash payment or reimbursement
34 pursuant to this paragraph to victims of crimes other than domestic
35 violence if the expenses are determined by law enforcement to be
36 necessary for the personal safety of the victim or by a mental health
37 treatment provider to be necessary for the emotional well-being of
38 the victim.

39 (E) The cash payment or reimbursement made under this
40 paragraph shall only be awarded once to any victim, except that the

board may, under compelling circumstances, award a second cash payment or reimbursement to the same victim if both of the following conditions are met:

(i) The crime or series of crimes occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(ii) The crime does not involve the same perpetrator.

(5) Authorize cash payments to or on behalf of the victim for job retraining or similar employment-oriented rehabilitative services.

(6) (A) In the case of a victim of a crime that occurred in the victim's residence, authorize reimbursement for the expense for installing or increasing residential security, not to exceed one thousand dollars (\$1,000). Installing or increasing residential security may include, but need not be limited to, both of the following:

(i) Home security device or system.

(ii) Replacing or increasing the number of locks.

(B) Reimbursement under this paragraph shall be made upon verification by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(C) The board shall develop procedures to ensure that the victim is using the reimbursement only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, invoices, estimates, or other documents, or developing a method for direct payment to the vendor.

(7) (A) In the case of a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total, authorize a reimbursement for the expense of renovating or retrofitting his or her residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by the victim. Reimbursement shall be made upon verification that the expense is medically necessary.

(B) The board shall develop procedures to ensure that reimbursement is made only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, invoices, estimates, or other documents, or developing a method for direct payment to the vendor.

(8) Obtain an independent examination and report from any provider of psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. In cases where the crime involves child abuse or molestation, the provider shall have expertise in the needs of victims of child abuse or molestation, as appropriate. When a reevaluation is obtained, payments shall not be discontinued prior to completion of the reevaluation.

(9) When a victim dies as a direct result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay, the medical or burial expenses incurred as a direct result of the crime for the medical or burial expenses incurred in an amount not to exceed the rates or limitations established by the board.

(10) The total award to or on behalf of the victim or a derivative victim shall not exceed thirty-five thousand dollars (\$35,000), and may be increased only in accordance with this section.

(11) If the victim requests that the board give priority to reimbursement of loss of wages, the board shall not pay medical expenses or mental health counseling expenses except upon the request of the victim or after determining that payment of these expenses will not decrease the funds available to the victim for payment of loss of wages.

(12) The board may authorize a direct cash payment to a provider of services that are reimbursable pursuant to this article. However, the board may not, without good cause, authorize a direct cash payment to a provider over the objection of the victim or applicant.

(13) When a victim dies as a result of a crime and the crime occurs in a residence, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars (\$1,000). Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Health Services as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.

1 (b) Assistance granted pursuant to this article shall not
2 disqualify an otherwise eligible victim or derivative victim from
3 participation in any other public assistance program.

4 (c) Cash payments made pursuant to this article may be on a
5 one-time or periodic basis. If periodic, the board may increase,
6 reduce, or terminate the amount of assistance according to the
7 victim's or derivative victim's need, subject to the maximum limits
8 provided in this section.

9 (d) The board shall pay attorney's fees representing the
10 reasonable value of legal services rendered to the applicant, in an
11 amount equal to 10 percent of the amount of the award, or five
12 hundred dollars (\$500), whichever is less for each victim and each
13 derivative victim. An attorney receiving fees from another source
14 may waive the right to receive fees under this section. Payments
15 under this section shall be in addition to any amount authorized or
16 ordered under subdivision (d) of Section 13969.1.

17 (e) No attorney shall charge, demand, receive, or collect any
18 amount for services rendered in connection with any proceedings
19 under this article except as awarded under this article.

20 (f) The maximum cash payments authorized in paragraph (10)
21 of subdivision (a) shall be increased to seventy thousand dollars
22 (\$70,000) if federal funds for those increases are available.

23 (g) Notwithstanding subdivisions (a) and (f), a victim injured
24 between January 1, 1985, and December 31, 1985, shall be entitled
25 to receive a maximum cash payment of forty-six thousand dollars
26 (\$46,000) if federal funds for these increases are available, but
27 only for costs in excess of limitations provided for in subdivision
28 (a) which are attributable to medical or medical-related expenses,
29 except for psychological or psychiatric treatment, or mental health
30 counseling services.

31 (h) Notwithstanding any conflicting provision of this chapter,
32 the board may make additional payments for purposes described
33 in paragraph (1) of subdivision (a) to any victim who filed an
34 application with the board on or after December 1, 1982, who was
35 a victim of a crime involving sexual assault, and who is a minor
36 at the time the additional payments pursuant to this subdivision are
37 made. The payments authorized by this subdivision shall not
38 exceed the limits imposed by subdivisions (a) and (j).

39 (i) Reimbursement for any medical or medical-related services
40 shall, if the victim's application has been approved, be paid by the

1 board within an average of 90 days from receipt of the claim for
2 payment. Payments to a medical or mental health provider under
3 this subdivision or paragraph (1) of subdivision (a) shall not be
4 discontinued prior to completion of any reevaluation. Whether or
5 not a reevaluation is obtained, if the board determines that
6 payments to a provider shall be discontinued, the board shall notify
7 the provider of their discontinuance within 30 days of its
8 determination.

9 (j) (1) The board may establish maximum rates and service
10 limitations for reimbursement of medical and medical-related
11 expenses, including counseling expenses, for which restitution is
12 requested pursuant to this section. For mental health and
13 counseling services, rates shall not exceed the statewide average.
14 The adoption, amendment, and repeal of these maximum rates
15 shall not be subject to the Administrative Procedure Act (Chapter
16 3.5 (commencing with Section 11340) of Part 1). An informational
17 copy of the maximum rates shall be filed with the Secretary of
18 State upon adoption by the board. A provider who accepts
19 payment from the program for a service shall accept the program's
20 rates as payment in full and shall not accept any payment on
21 account of the service from any other source if the total of
22 payments accepted would exceed the maximum rate set by the
23 board for that service.

24 (2) To assure service limitations that are uniform and
25 appropriate to the levels of treatment required by the victim or
26 derivative victim, the board may review all claims for these
27 services as necessary to ensure their medical necessity. The board
28 may further require additional documentation, information, or
29 medical review of cases of continuing treatment which are
30 projected to exceed five thousand dollars (\$5,000) to determine the
31 need to continue treatment in excess of that amount. The board
32 may accept or reject claims for the amount in excess of five
33 thousand dollars (\$5,000) by applying the same standards
34 applicable to processing the initial claim or may approve a
35 continuing treatment regimen for a specific interval or subject to
36 periodic review as appropriate. All information requested of the
37 treating therapist shall be provided at no cost to the applicant, the
38 board, or to local victim centers, pursuant to subdivision (b) of
39 Section 13962. Requests for additional information shall be made
40 in a timely manner so as not to interfere with necessary treatment.



(k) The authority provided by this section shall not be construed to in any way diminish, enhance, or otherwise affect any authority that the board may have under current law except as explicitly provided in this section.

(l) The board, in its discretion, may make payments directly to providers prior to verification.

(m) Notwithstanding paragraph (1) of subdivision (a), the board may reimburse a victim or derivative victim for mental health counseling in excess of that authorized by that paragraph if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.

(n) Notwithstanding paragraph (1) of subdivision (a), if, as of December 31, 1993, a person has incurred mental health counseling expenses pursuant to this article in excess of one-half of the amount specified in that subdivision, the board may award, in addition to amounts awarded for previously incurred expenses, an amount equal to not more than one-half of the applicable maximum amount specified in that paragraph or any additional amounts as the board determines is necessary.

(o) The total award to or on behalf of a victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not exceed three thousand dollars (\$3,000) for mental health counseling expenses only.

(p) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

~~SEC. 4.—~~

SEC. 8. Section 13965 of the Government Code, as amended by Section 11.5 of Chapter 712 of the Statutes of 2001, is amended to read:

13965. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim or derivative victim. The board may take any or all of the following actions:

(1) Reimburse the following persons for the expense of their outpatient mental health counseling when that mental health counseling is necessary as a direct result of the crime:

(A) A victim in an amount not to exceed ten thousand dollars (\$10,000).

(B) A derivative victim who is the surviving parent, sibling, child, spouse, or fiancé of a victim of a crime which directly resulted in the death of the victim in an amount not to exceed ten thousand dollars (\$10,000).

(C) A derivative victim who is the primary caretaker of a minor victim of sexual or physical abuse whose claim is not denied or reduced pursuant to subdivision (b) or (d) of Section 13964 in a total amount not to exceed ten thousand dollars (\$10,000) for not more than two derivative victims described in this subparagraph.

(D) ~~(i)~~—A derivative victim not eligible for reimbursement pursuant to subparagraph (B) or (C) in an amount not to exceed three thousand dollars (\$3,000).

The board may authorize a direct cash payment to a provider of psychological or psychiatric treatment or mental health counseling services, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code and domestic violence crisis ~~intervention~~ *peer* counseling services provided by a domestic violence ~~intervention~~ *peer* counselor, or to either the victim or the derivative victim, equal to the pecuniary loss attributable to medical or medical-related expenses, including counseling, directly resulting from the injury. Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services, including peer counseling services provided by a rape crisis center and domestic violence crisis ~~intervention~~ *peer* counseling services provided by a domestic violence ~~intervention~~ *peer* counselor, shall, if the application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment. However, the board may not authorize without good cause a direct cash payment to a licensed health care provider, rape crisis center, or organization that provides domestic violence crisis counseling services over the objection of the applicant.

When a public agency, including a court or district attorney or a police, county child protective services, or other state or local governmental agency, refers a victim of crime to a private nonprofit agency for treatment for that victim, the private nonprofit agency shall be reimbursed for those services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services,

1 except that this reimbursement shall not exceed the maximum
2 reimbursement rates set by the board and may be made only to the
3 extent that the victim otherwise qualifies for services under the
4 victims of crime program and that other reimbursement or direct
5 subsidies are not available to serve the victim.

6 ~~(ii) Payments~~

7 *Payments* authorized pursuant to this paragraph for peer
8 counseling services provided by a rape counseling center or for
9 domestic violence crisis ~~intervention~~ *peer counseling* shall be
10 established by the board ~~at an hourly rate. In establishing the~~
11 ~~hourly rate, the board shall consider such factors as the following:~~

12 ~~(I) Whether the counseling services were provided by a peer~~
13 ~~counselor or a domestic violence intervention counselor.~~

14 ~~(II) An analysis of the rates paid for similar or equivalent~~
15 ~~services by other state and county programs.~~

16 ~~(III) Any other factors the board deems relevant.~~

17 ~~Services reimbursed in accordance with clause (ii) shall be at an~~
18 ~~hourly rate. These services shall be~~ limited to individual, in-person
19 counseling on a face-to-face basis for a period not to exceed 10
20 weeks plus one series of facilitated support group counseling
21 sessions.

22 *A rape crisis peer counselor or domestic violence peer*
23 *counselor who is funded in whole by federal funds shall not be*
24 *eligible to receive reimbursement under this article.*

25 (2) Authorize a cash payment to the victim or derivative victim
26 equal to the pecuniary loss resulting from loss of wages pursuant
27 to Section 13965.1.

28 (3) Authorize a cash payment to a derivative victim for loss of
29 support pursuant to Section 13965.1.

30 (4) (A) Authorize a cash payment or reimbursement not to
31 exceed two thousand dollars (\$2,000) to a victim of sexual assault
32 or domestic violence for expenses incurred in relocating, if the
33 expenses are determined by law enforcement to be necessary for
34 the personal safety of the victim or by a mental health treatment
35 provider to be necessary for the emotional well-being of the
36 victim. These expenses may include, but need not be limited to, all
37 of the following:

38 (i) Deposits for utilities and telephone service.

1 (ii) Deposits for rental housing, not to exceed the first and last
2 month's rent and a security deposit or two thousand dollars
3 (\$2,000), whichever is less.

4 (iii) Temporary lodging and food expenses, not to exceed one
5 thousand dollars (\$1,000).

6 (iv) Clothing and other personal items, not to exceed five
7 hundred dollars (\$500).

8 (B) The board shall develop procedures to ensure that the
9 victim is using the cash payment only for the purposes of this
10 paragraph. The procedures may include, but need not be limited
11 to, requiring copies of receipts, lease agreements, or other
12 documents as requested, or developing a method of direct payment
13 to the landlord or vendor.

14 (C) When a relocation payment or reimbursement is provided
15 to a victim of sexual assault or domestic violence, the victim shall
16 agree to not inform the offender, if the identity of the offender is
17 known to the victim, of the location of the victim's new residence
18 and to not allow the offender, if the identity of the offender is
19 known to the victim, on the premises at any time, or shall agree to
20 seek a restraining order against the offender, if the identity of the
21 offender is known to the victim.

22 (D) The board may authorize a cash payment or reimbursement
23 pursuant to this paragraph to victims of crimes other than domestic
24 violence if the expenses are determined by law enforcement to be
25 necessary for the personal safety of the victim or by a mental health
26 treatment provider to be necessary for the emotional well-being of
27 the victim.

28 (E) The cash payment or reimbursement made under this
29 paragraph shall only be awarded once to any victim, except that the
30 board may, under compelling circumstances, award a second cash
31 payment or reimbursement to the same victim if both of the
32 following conditions are met:

33 (i) The crime or series of crimes occurs more than three years
34 from the date of the crime giving rise to the initial relocation cash
35 payment or reimbursement.

36 (ii) The crime does not involve the same perpetrator.

37 (5) Authorize cash payments to or on behalf of the victim for
38 job retraining or similar employment-oriented rehabilitative
39 services.

(6) (A) In the case of a victim of a crime that occurred in the victim's residence, authorize reimbursement for the expense for installing or increasing residential security, not to exceed one thousand dollars (\$1,000). Installing or increasing residential security may include, but need not be limited to, both of the following:

(i) Home security device or system.

(ii) Replacing or increasing the number of locks.

(B) Reimbursement under this paragraph shall be made upon verification by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(C) The board shall develop procedures to ensure that the victim is using the reimbursement only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, invoices, estimates, or other documents, or developing a method for direct payment to the vendor.

(7) (A) In the case of a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total, authorize reimbursement for the expense of renovating or retrofitting his or her residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by the victim. Reimbursement shall be made upon verification that the expense is medically necessary.

(B) The board shall develop procedures to ensure that reimbursement is made only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, invoices, estimates, or other documents, or developing a method for direct payment to the vendor.

(8) Obtain an independent examination and report from any provider of psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. In cases where the crime involves child abuse or molestation, the provider shall have expertise in the needs of victims of child abuse or molestation, as appropriate. When a reevaluation is obtained, payments shall not be discontinued prior to completion of the reevaluation.

1 (9) When a victim dies as a direct result of a crime, the board
2 may reimburse any individual who voluntarily, and without
3 anticipation of personal gain, pays or assumes the obligation to
4 pay, the medical or burial expenses incurred as a direct result of the
5 crime for the medical or burial expenses incurred in an amount not
6 to exceed the rates or limitations established by the board.

7 (10) The total award to or on behalf of the victim or a derivative
8 victim shall not exceed thirty-five thousand dollars (\$35,000), and
9 may be increased only in accordance with this section.

10 (11) If the victim requests that the board give priority to
11 reimbursement of loss of wages, the board shall not pay medical
12 expenses or mental health counseling expenses except upon the
13 request of the victim or after determining that payment of these
14 expenses will not decrease the funds available to the victim for
15 payment of loss of wages.

16 (12) The board may authorize a direct cash payment to a
17 provider of services that are reimbursable pursuant to this article.
18 However, the board may not, without good cause, authorize a
19 direct cash payment to a provider over the objection of the victim
20 or applicant.

21 (13) When a victim dies as a result of a crime and the crime
22 occurs in a residence, the board may reimburse any individual who
23 voluntarily, and without anticipation of personal gain, pays or
24 assumes the obligation to pay the reasonable costs to clean the
25 scene of the crime in an amount not to exceed one thousand dollars
26 (\$1,000). Services reimbursed pursuant to this subdivision shall be
27 performed by persons registered with the State Department of
28 Health Services as trauma scene waste practitioners in accordance
29 with Chapter 9.5 (commencing with Section 118321) of Part 14 of
30 Division 104 of the Health and Safety Code.

31 (b) Assistance granted pursuant to this article shall not
32 disqualify an otherwise eligible victim or derivative victim from
33 participation in any other public assistance program.

34 (c) Cash payments made pursuant to this article may be on a
35 one-time or periodic basis. If periodic, the board may increase,
36 reduce, or terminate the amount of assistance according to the
37 victim's or derivative victim's need, subject to the maximum limits
38 provided in this section.

39 (d) The board shall pay attorney's fees representing the
40 reasonable value of legal services rendered to the applicant, in an

1 amount equal to 10 percent of the amount of the award, or five
2 hundred dollars (\$500), whichever is less for each victim and each
3 derivative victim. An attorney receiving fees from another source
4 may waive the right to receive fees under this section. Payments
5 under this section shall be in addition to any amount authorized or
6 ordered under subdivision (d) of Section 13969.1.

7 (e) No attorney shall charge, demand, receive, or collect any
8 amount for services rendered in connection with any proceedings
9 under this article except as awarded under this article.

10 (f) The maximum cash payments authorized in paragraph (10)
11 of subdivision (a) shall be increased to seventy thousand dollars
12 (\$70,000) if federal funds for those increases are available.

13 (g) Notwithstanding subdivisions (a) and (f), a victim injured
14 between January 1, 1985, and December 31, 1985, shall be entitled
15 to receive a maximum cash payment of forty-six thousand dollars
16 (\$46,000) if federal funds for these increases are available, but
17 only for costs in excess of limitations provided for in subdivision
18 (a) which are attributable to medical or medical-related expenses,
19 except for psychological or psychiatric treatment, or mental health
20 counseling services.

21 (h) Notwithstanding any conflicting provision of this chapter,
22 the board may make additional payments for purposes described
23 in paragraph (1) of subdivision (a) to any victim who filed an
24 application with the board on or after December 1, 1982, who was
25 a victim of a crime involving sexual assault, and who is a minor
26 at the time the additional payments pursuant to this subdivision are
27 made. The payments authorized by this subdivision shall not
28 exceed the limits imposed by subdivisions (a) and (j).

29 (i) Reimbursement for any medical or medical-related services
30 shall, if the victim's application has been approved, be paid by the
31 board within an average of 90 days from receipt of the claim for
32 payment. Payments to a medical or mental health provider under
33 this subdivision or paragraph (1) of subdivision (a) shall not be
34 discontinued prior to completion of any reevaluation. Whether or
35 not a reevaluation is obtained, if the board determines that
36 payments to a provider shall be discontinued, the board shall notify
37 the provider of their discontinuance within 30 days of its
38 determination.

39 (j) (1) The board may establish maximum rates and service
40 limitations for reimbursement of medical and medical-related

1 expenses, including counseling expenses, for which restitution is
2 requested pursuant to this section. For mental health and
3 counseling services, rates shall not exceed the statewide average.
4 The adoption, amendment, and repeal of these maximum rates
5 shall not be subject to the Administrative Procedure Act (Chapter
6 3.5 (commencing with Section 11340) of Part 1). An informational
7 copy of the maximum rates shall be filed with the Secretary of
8 State upon adoption by the board. A provider who accepts
9 payment from the program for a service shall accept the program's
10 rates as payment in full and shall not accept any payment on
11 account of the service from any other source if the total of
12 payments accepted would exceed the maximum rate set by the
13 board for that service.

14 (2) To assure service limitations that are uniform and
15 appropriate to the levels of treatment required by the victim or
16 derivative victim, the board may review all claims for these
17 services as necessary to ensure their medical necessity. The board
18 may further require additional documentation, information, or
19 medical review of cases of continuing treatment which are
20 projected to exceed five thousand dollars (\$5,000) to determine the
21 need to continue treatment in excess of that amount. The board
22 may accept or reject claims for the amount in excess of five
23 thousand dollars (\$5,000) by applying the same standards
24 applicable to processing the initial claim or may approve a
25 continuing treatment regimen for a specific interval or subject to
26 periodic review as appropriate. All information requested of the
27 treating therapist shall be provided at no cost to the applicant, the
28 board, or to local victim centers, pursuant to subdivision (b) of
29 Section 13962. Requests for additional information shall be made
30 in a timely manner so as not to interfere with necessary treatment.

31 (k) The authority provided by this section shall not be
32 construed to in any way diminish, enhance, or otherwise affect any
33 authority that the board may have under current law except as
34 explicitly provided in this section.

35 (l) The board, in its discretion, may make payments directly to
36 providers prior to verification.

37 (m) Notwithstanding paragraph (1) of subdivision (a), the
38 board may reimburse a victim or derivative victim for mental
39 health counseling in excess of that authorized by that paragraph if

1 the claim is based on dire or exceptional circumstances that require
2 more extensive treatment, as approved by the board.

3 (n) Notwithstanding paragraph (1) of subdivision (a), if, as of
4 December 31, 1993, a person has incurred mental health
5 counseling expenses pursuant to this article in excess of one-half
6 of the amount specified in that subdivision, the board may award,
7 in addition to amounts awarded for previously incurred expenses,
8 an amount equal to not more than one-half of the applicable
9 maximum amount specified in that paragraph or any additional
10 amounts as the board determines is necessary.

11 (o) This section shall become operative on January 1, 2004.

